



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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**JAN 31 2019**

Ref: 8P-AR

Nancy Vehr, Administrator  
Air Quality Division  
Wyoming Department of Environmental Quality  
200 West 17<sup>th</sup> Street  
Cheyenne, Wyoming 82002

Re: Wyoming Department of Environmental Quality (WDEQ) Exceptional Event Initial Notifications dated October 17 and November 15, 2017

Dear Ms. Vehr:

This letter is in response to exceptional event initial notifications dated October 17 and November 15, 2017 (Initial Notifications), submitted by the WDEQ – Air Quality Division (AQD) which requested that the Administrator make the determination under 40 CFR 50.14 (a)(1)(F) that the EPA will agree to review an exceptional event demonstration for these events. The October 17, 2017 notification covered high wind dust PM<sub>10</sub> potential exceptional event exceedances recorded at the Black Thunder, North Antelope Rochelle (NARM) and School Creek mines on December 19, 2016. The November 15, 2017 letter addressed a high wind dust PM<sub>10</sub> potential exceptional event exceedance on November 29, 2016, at NARM.

In 2016, the EPA adopted revisions to the “Treatment of Data Influenced by Exceptional Events; Final Rule” (81 Fed. Reg. 68216). The Rule modified the previous process for exclusion of air quality data related to exceedances or violations of any National Ambient Air Quality Standards (NAAQS) from regulatory decisions by the EPA. The Rule, codified at 40 CFR 50.14(a)(1)(i), provides that a state may request that the EPA exclude data showing exceedances or violations of any NAAQS due to exceptional events when those events impact data that will be used for one or more of the following EPA actions:

- A. An action to designate an area, pursuant to Clean Air Act section 107(d)(1), or redesignate an area, pursuant to Clean Air Act section 107(d)(3), for a particular national ambient air quality standard;
- B. The assignment or re-assignment of a classification category to a nonattainment area where such classification is based on a comparison of pollutant design values, calculated according to the specific data handling procedures in 40 CFR part 50 for each national ambient air quality standard, to the level of the relevant national ambient air quality standard;
- C. A determination regarding whether a nonattainment area has attained the level of the appropriate national ambient air quality standard by its specified deadline;



- D. A determination that an area has data for the specific NAAQS, which qualify the area for an attainment date extension under the CAA provisions for the applicable pollutant;
- E. A determination under CAA section 110(k)(5), if based on an area violating a national ambient air quality standard, that the state implementation is inadequate under the requirements of Clean Air Act section 110; and
- F. Other actions on a case-by-case basis as determined by the Administrator.

When a state demonstrates to the EPA that “an exceptional event caused a specific air pollution concentration at a particular air quality monitoring location and otherwise satisfies the requirements of this section,” then the EPA “shall exclude data from use in determinations of exceedances and violations” identified in the above list. WDEQ/AQD’s Initial Notifications outlined how the potential exceptional events may impact data and regulatory actions and requested that the EPA agree to review the events under provision (F); and therefore, if shown to be caused by exceptional events, the data should be excluded from use in determinations of exceedances and violations.

The EPA understands that WDEQ considers these exceptional events to be of regulatory significance because of the WDEQ’s reliance on the data to determine compliance with ambient standards, the use of ambient data in WDEQ’s permitting processes, and third party interests.<sup>1</sup> At this time, the EPA has not identified and does not anticipate using any of the flagged data in any pending EPA regulatory determination, to formulate or support regulation, guidance, or in any other pending EPA decision, position or action; and therefore, does not plan to further review these events for concurrence.<sup>2</sup> The EPA recommends that WDEQ/AQD postpone the preparation and submission of demonstrations for these potential exceptional event exceedances until such time as the EPA determines that it may use the data for any of the actions listed under provisions (A) through (E) above, in any other EPA regulatory determination under provision (F) or to formulate or support regulation, guidance, or any other pending EPA decision, position or action unless scientifically relevant and appropriate. The EPA agrees that prior to using the data in a regulatory determination, to formulate or support regulation, guidance or any other pending EPA decision, position or action unless scientifically relevant and appropriate, the EPA Region 8 Office commits to notify and provide WDEQ/AQD with an opportunity to prepare and submit a formal exceptional event concurrence request and demonstration. And, the EPA will review and make a determination regarding these potential exceptional event exceedances under the requirements of the 2016 Final Rule “Treatment of Data Influenced by Exceptional Events.” (81 Fed. Reg. 68216).

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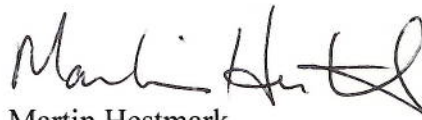
<sup>1</sup> EPA acknowledges that because other state or federal agencies, or third parties, may access and utilize data from the EPA’s Air Quality System (AQS) it is important to flag the data.

<sup>2</sup> EPA evaluated wind speeds from November 29 and December 19, 2016, near the location of the NARM and School Creek Mine monitors. On those dates, peak sustained wind speeds ranged from 38 to 43.8 miles per hour (mph). Those sustained wind speeds exceed the high wind dust event threshold of 25 mph set forth in 40 CFR 50.14(b)(5)(iii) and are consistent with historical high wind exceptional events. Therefore, EPA agrees that it is very likely that these high winds caused or contributed to the monitored PM<sub>10</sub> NAAQS exceedances at the NARM and School Creek Mine monitors on November 29 and December 19, 2016. However, a concurrence decision also requires a demonstration that satisfies the requirements in 40 CFR 50.14(c)(3) that possible contributing sources implemented reasonable controls on those dates.

In the meantime, and to assist the EPA in assuring that it will not use the data until WDEQ/AQD has had an opportunity to prepare and submit a formal exceptional event concurrence request and demonstration, the EPA understands the WDEQ/AQD may change the data flag in the EPA's Air Quality System (AQS) from an "i" flag to an "r" flag, and may change the AQD's short description to acknowledge this EPA response to WDEQ/AQD's notification.<sup>3</sup> It is also the EPA's understanding that WDEQ/AQD will distribute this EPA response to the Black Thunder, NARM and School Creek mines.

We are committed to continuing to work with the WDEQ on exceptional events within Wyoming. If you have questions, please feel free to contact Monica Morales, Air Program Director, at (303) 312-6936.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Hestmark". The signature is fluid and cursive, with the first name "Martin" being more legible than the last name "Hestmark".

Martin Hestmark  
Assistant Regional Administrator  
Office of Partnerships and Regulatory Assistance

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<sup>3</sup> Because the EPA recommends that the WDEQ/AQD postpone the preparation and submission of demonstrations for these exceedances, this flag change does not trigger any additional requirements for the WDEQ/AQD until such time as the EPA determines that it may use the data for any of the actions listed under provisions (A) through (E) above, in any other EPA regulatory determination under provision (F) or to formulate or support regulation, guidance, or any other pending EPA decision, position or action unless scientifically relevant and appropriate.

